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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 UNITED STATES OF AMERICA,)	Case No. 5:08-cr-00156 (JW)
)	
12 Plaintiff,)	MOTION TO MODIFY WITNESS
)	<u>SUBPOENA</u>
13 v.)	
)	Hearing Date: August 5, 2008
14 RODRIGUEZ,)	Hearing Time: 9:00 a.m.
)	Judge: Hon. James Ware
15 Defendant.)	
_____)	

Sophia Watkins, by and through her undersigned counsel, respectfully submits this memorandum in support of her motion to have the court modify her subpoena to testify to allow her to delay her presence at trial until after the completion of her current and previously planned trip to the Middle East on August 14, 2008. Ms. Watkins understands that modification of her subpoena may necessitate a brief continuance in the trial, but submits that the extraordinary expense of returning to the United States, combined with the irreparable loss that would be associated with such a return, warrant such action by the Court. **Unless the court can rule on this motion by tomorrow morning, Friday, August 1, Ms. Watkins will have already boarded a plane for the United States and this motion will be moot.**

I. COMPELLING MS. WATKINS TO INCUR THE EXPENSE OF A ROUND TRIP TICKET TO THIS DISTRICT AND TO LEAVE HER AILING FATHER AND MINOR CHILDREN IN THE MIDDLE EAST IS UNREASONABLE AND OPPRESSIVE.

Ms. Watkins, a potential witness in this case, is currently on a once-in-a-lifetime trip with her 80-year old father, for whom she is the primary caregiver, and her four minor children in the Middle East, having departed on July 21, 2008, with a return date of August 13, 2008.

The purpose of this trip is to allow her father to visit the land of his birth, which he has not seen for 50 years, for the last time. Ms. Watkins apparently planned this trip months before being subpoenaed to testify in this trial and informed the Government as to this fact upon receipt of the subpoena, some time before the July 21, 2008. It is my understanding that this Court made it clear at a pretrial conference, perhaps on July 24, 2008 that Ms. Watkins' testimony was material to this case. I am further informed that the Government indicated to Ms. Watkins prior to her departure that she needed to commit to return from her vacation to testify or they would detain her as a material witness. Ms. Watkins so committed and has since purchased what I have been informed is a \$6,000 refundable ticket to be present at trial to testify as prescribed by her subpoena.

She understands that her request may present an inconvenience to the Government, the Court, and the defendant and sincerely regrets the need to request this accommodation. She apologizes for her delay in filing this motion, but was unable to retain counsel until this week, and counsel was in turn unable to locate Ms. Watkins until the afternoon of July 30, 2008. Nonetheless, Ms. Watkins respectfully submits that the expense of purchasing airfare at the cost of \$6,000 and the emotional

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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE VENUE**

10 UNITED STATES OF AMERICA,)	Case No. 5:08-cr-00156 (JW)
)	
11 Plaintiff,)	[PROPOSED] ORDER MODIFYING
)	WITNESS SUBPOENA
12 v.)	
)	
13 RODRIGUEZ,)	
)	Judge: Honorable James Ware
14 Defendant.)	

15 On July 31, 2008, Sophia Watkins filed an ex parte motion for an order modifying her
16 subpoena to testify. Upon consideration of motion, and good cause appearing, the Court GRANTS the
17 motion.

18 IT IS HEREBY ORDERED that Sophia Watkins shall not be required to testify in the
19 above captioned case until on or after **August 14, 2008**.

20 SO ORDERED.

21 Dated:

22 _____
The Honorable James Ware
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